

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF MARTIN BETTWIESER) APPEAL NO. 06-A-2045
from the decision of the Board of Equalization of Ada County) FINAL DECISION
for tax year 2006.) AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing September 27, 2006, in Boise, Idaho, before Hearing Officer Steve Wallace. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Martin Bettwieser appeared for himself. Chief Deputy Assessor Marilee Fuller and Deputy Assessor Diana Kelly appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. R2928150280.

The issue on appeal is the market value of a residential property.

The decision of the Ada County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$50,000, and the improvements' valuation is \$63,000, totaling \$113,000. Appellant requests the land value be reduced to \$27,000, and the improvements' value be reduced to \$59,000, totaling \$86,000.

The subject property is a single family residence built in 1980 located on a .15 acre lot in Southeast Boise, Idaho.

Appellant noted a decision from the Board of Tax Appeals on subject property for 2005. The Board reduced the assessed value in this decision. The value was further reduced by the County in 2005. However the value increased for the current 2006 tax year. Appellant believed the assessment should be further reduced for 2006 and presented an estimate to add a cooling system to subject. It was maintained the County is valuing all properties based on a few properties of high selling value.

Taxpayer claimed the market had actually decreased 25% since the previous year.

Exhibit materials included a copy of a 2006 listing flier of a property with an original asking price of \$259,000. The asking was later reduced to 229,000 and the property still had not sold.

Further Appellant documents included copies of property assessment records for comparable sales used by the County. Increases in assessed values since the sales was noted. Included was a photograph of a neighboring property in poor condition with a lot value of \$34,000.

Appellant submitted a map with assessed land values for properties surrounding subject. The values did not seem consistent to Taxpayer. Through analysis it was contended there is a \$12,000 difference in assessed values of lots without houses compared to lots that are improved. Based on this analysis, it was contended the subject lot is worth \$25,000.

The exhibit included eight printouts (property masters) from the County web page which listed the assessed values of properties near subject. A comparison of other lot assessments, indicated subject land is worth \$17,841, according to Taxpayer. In addition, it was maintained several land parcels were assessed for more than the MLS listing price.

A copy of a Square Foot Lump Sum Tables from Oregon was submitted, from which Taxpayer costed the subject improvements, less the air conditioning required, and claimed subject residence should be valued for \$32,956.

Respondent reported the subject land assessment had been trended for 2006. The subject was last physically appraised in 2004. After an interior inspection of subject, an adjustment was made and the assessed value was reduced to \$100,200. In 2005 the property assessment increased to \$106,500 through trending of subject's neighborhood. On appeal that value was reduced to \$104,000. The improvement value was further addressed by the Assessor's Office to reflect the cost of air conditioning. The final 2005 assessment was then \$97,000 (improvements \$63,000 and land \$34,000.)

A Market Appreciation study was submitted by the County. It indicated a 2005 increase in prices of about 22%, or 1.85% per month. Vacant land sales in southeast Boise were also submitted to demonstrate land appreciation between 2004 and 2005. A trend was developed and applied to older assessed values to more closely represent current market value as required by statute. A positive trend of approximately 25% was applied to all land assessments in subject's area. This increased land values from \$34,000 to \$50,000 for 2006. Subject improvements were not increased.

The County testified that all three approaches to value were considered when appraising subject property.

Three sale properties with single level residences were compared to subject. The prices ranged from \$96 to \$119 per square foot. Two of the sales were located very close to subject. Subject is assessed for \$90.98 per square foot.

Respondent submitted a map of subject and surrounding areas, with listed assessed land values. All of the lots in subject's area were assessed for \$50,000.

In closing Respondent noted the condition of subject residence had been considered, and expressed the opinion that subject's assessment was fair and equitable.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho is a market value state for property tax purposes.

63-205. ASSESSMENT -- MARKET VALUE FOR ASSESSMENT PURPOSES. (1)
All real, personal and operating property subject to property taxation must be assessed annually at market value for assessment purposes as of 12:01 a.m. of

the first day of January in the year in which such property taxes are levied, except as otherwise provided. Market value for assessment purposes shall be determined according to the requirements of this title or the rules promulgated by the state tax commission

Respondent submitted sales information to support the 2006 trend applied to subject land. Sales were also considered to indicate a range of probable value. The Board believes the comparable sales do support subject's assessed value. Sales were reasonably analyzed to determine any increase or decrease in prices between 2004 and 2005. The price trend was certainly positive and clearly present.

In determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979). The condition of subject residence was considered by Respondent, and a reduction in assessed value was apparent.

Appellant did not offer sales information supporting the value claim. An estimate of the cost to add air conditioning to the residence was submitted. However, according to the record this was already addressed by Respondent.

There are three generally accepted appraisal methods: the cost, income, and market (sales comparison) approaches to value. Fairway Dev. Co. v. Bannock County, 113 Idaho 933 at 937, 750 P.2d 954 (1988). Appellant offered many comparisons of "assessed values" and charged many errors were made by Respondent. A comparison of assessed values is not an accepted appraisal method and is not found to offer good evidence of market value.

The court will grant relief where the valuation fixed by the assessor is manifestly excessive, fraudulent or oppressive; or arbitrary, capricious and erroneous resulting in discrimination against the taxpayer. Roeder Holdings, L.L.C. v. BOE of Ada County, 136 Idaho

809, 41 P.3d 237 (2001).

In this case Taxpayer has not convinced the Board the assessment of subject is in error. Appellant has not demonstrated the presence of an arbitrary or capricious assessment, as the assessed value of subject was reasonably based on, and related to, sales information. We find Appellant has not supported the claim for relief. Therefore the decision of the Ada County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 28th day of February, 2007.